

KING & SPALDING

King & Spalding LLP
1185 Avenue of the Americas, 35th Floor
New York, NY 10036-4003
Tel: +1 212 556 2100
Fax: +1 212 556 2222
www.kslaw.com

Mark A. Kirsch
Partner
mkirsch@kslaw.com

September 15, 2023

Via ECF

Hon. Alvin K. Hellerstein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Sealed
9-18-23
Alvin K. Hellerstein

Re: *The Avon Company f/k/a New Avon LLC, et al. v. Fareva Morton Grove, Inc., et al.*,
No. 1:22-cv-4724-AKH

Dear Judge Hellerstein:

I write on behalf of Fareva to request respectfully that the Court enter an order maintaining under seal the documents listed below, which Avon submitted as exhibits in recent filings. Specifically, in connection with Avon's renewed motion for contempt and a joint discovery dispute letter (which is now moot), Avon filed two letter motions to seal that remain pending. *See* ECF Nos. 174, 181. Avon's two pending letter motions to seal concern documents designated "Confidential" or "Attorneys' Eyes Only" by Fareva (and, in a few instances, a nonparty to this litigation) pursuant to the Protective Order in this action. *See* ECF Nos. 174, 181 (describing each document filed under seal); *see also* ECF No. 65 (Stipulated Confidentiality Agreement and Protective Order). Avon maintains it filed these documents under seal only to comply with its obligations under the Protective Order and otherwise takes no position on whether these documents should be maintained under seal.

At the September 11, 2023 hearing, the Court directed Fareva to file by September 15, 2023 a letter setting forth its position on whether the subject documents should be maintained under seal. *See* 9/11/2023 Hr'g Tr. 52:9-25. Accordingly, Fareva requests respectfully that the Court maintain the following documents under seal because they contain nonpublic information regarding nonparties to this litigation—namely, sensitive information regarding Fareva's customers, suppliers, and/or consultant:

- ECF No. 179-8
- ECF No. 179-9
- ECF No. 179-10
- ECF No. 179-11
- ECF No. 179-12

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- ECF No. 179-13
- ECF No. 179-14
- ECF No. 179-15
- ECF No. 179-17
- ECF No. 179-18
- ECF No. 179-19
- ECF No. 179-20
- ECF No. 179-21
- ECF No. 179-22
- ECF No. 179-23
- ECF No. 179-24
- ECF No. 179-25
- ECF No. 179-26
- ECF No. 179-27
- ECF No. 179-28
- ECF No. 179-29
- ECF No. 179-30
- ECF No. 179-31
- ECF No. 179-33
- ECF No. 179-36
- ECF No. 179-37
- ECF No. 179-38
- ECF No. 179-40
- ECF No. 179-42
- ECF No. 179-43
- ECF No. 179-44
- ECF No. 179-45
- ECF No. 179-46
- ECF No. 179-47
- ECF No. 179-48
- ECF No. 179-49
- ECF No. 179-50
- ECF No. 179-52
- ECF No. 179-53
- ECF No. 179-55
- ECF No. 179-56
- ECF No. 179-57
- ECF No. 179-67

The Second Circuit has instructed that the privacy interests of “third parties should weigh heavily in a court’s balancing” of the right of public access against countervailing factors weighing against disclosure. *United States v. Amodio*, 71 F.3d 1044, 1050 (2d Cir. 1995). Specifically, “the privacy interests of non-parties” is a factor that often “outweigh[s] the right of public access.” *SEC*

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v. Telegram Grp. Inc., 2020 WL 3264264, at *3 (S.D.N.Y. June 17, 2020). Accordingly, Fareva respectfully requests that the Court enter an order maintaining under seal the above-listed documents.

In addition, one of the other documents Avon filed under seal (ECF No. 179-63) is a deposition transcript excerpt that contains the home address of a former Fareva employee—another nonparty. The Court’s Individual Rules explicitly recognize that “home addresses” are sensitive information that “should be treated with caution and may warrant” sealing. *See* Individual Rule 4.B.1; *see also Kewazinga Corp. v. Microsoft Corp.*, 2021 WL 1222122, at *5 (S.D.N.Y. Mar. 31, 2021) (granting request to redact email addresses of nonparty employees of the defendant). Accordingly, Fareva also requests respectfully that the Court enter an order maintaining this information under seal.

Fareva has no objection to the public filing of the other documents listed in Avon’s two pending letter motions to seal. *See* ECF Nos. 174, 181.

As always, we thank the Court for its consideration.

Respectfully submitted,

/s/ Mark A. Kirsch
Mark A. Kirsch

cc: All counsel of record (via ECF)